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March 1, 2017

Via Electronic Mail

Jennifer LaPoma
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007-1866

Re: Revised Draft Final 17-Mile Lower Passaic River Study Area (LPRSA) Baseline Human Health Risk Assessment - Administrative Agreement and Order on Consent for Remedial Investigation/Feasibility Study - CERCLA Docket No. 02-2007-2009

Dear Ms. LaPoma:

The Lower Passaic River Study Area Cooperating Parties Group (CPG) is delivering the revised Baseline Human Health Risk Assessment (BHHRA) for the entire 17-mile LPRSA Remedial Investigation/Feasibility Study (RI/FS). The 17-mile LPRSA BHHRA has been prepared pursuant to the following documents:

- ☐ May 2007 Administrative Agreement and Order on Consent (AOC)
- ☐ August 2009 Region 2-approved Problem Formulation Document (PFD)
- ☐ February 2012 Region 2-CPG Dispute Resolution
- ☐ October 2013 Draft Risk Analysis and Risk Characterization Work Plan (RARC)
- ☐ June 2015 Region 2 BHHRA Comments
- ☐ October 2015 Region 2 BHHRA Responses
- ☐ December 2015 Region 2 BHHRA Responses
- ☐ August 2016 Region 2 BHHRA Comments
- ☐ January 2017 Region 2 BHHRA Responses

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Despite the CPG's disagreements outlined previously and herein, the CPG has revised under protest the 17-mile BHHRA to conform with the Region's directives. The inclusion of the directed changes and text revisions should in no way be construed as CPG's agreement and/or waiving any of the issues outlined in this transmittal letter and previous documents prepared by the CPG and delivered to EPA Region 2.

The CPG once again notes its strong objection to and disagreement with the directives that EPA Region 2 has unilaterally imposed on the preparation of the 17-mile LPRSA BHHRA to inflate risk estimates for LPR receptors. EPA Region 2 has also explicitly required CPG to remove all mention of Region 2's directives and stipulated direction from the BHHRA. The CPG's objections are well-documented in the 2011 dispute resolution documents, June 2014 BHHRA transmittal letter, and more recent communications including but not limited to:

- ☐ CPG's Revised BHHRA transmittal letter dated December 18, 2015
- ☐ CPG's Letter dated April 13, 2016
- ☐ CPG's Response to Comments dated September 26, 2016
- ☐ CPG's Response to Comments dated January 16, 2017

Moreover, the CPG is compelled to respond and address for the record, statements made by EPA Region 2 in its August 25, 2016 and January 5, 2017 letters regarding the CPG's revised draft BHHRA submitted December 18, 2015.

- ☐ The CPG disagrees with EPA Region 2's contention that the December 2015 version of the BHHRA did not appropriately address the Region's previous comments. As the CPG has previously documented, the Region's comments have had no significant or substantive effect on the risk calculations presented in the June 2014 or December 2015 versions of the 17-mile BHHRA both of which present risk estimates that are not substantially different to the risks in the Region's 8-mile FFS HHRA.
- ☐ The CPG disagrees that the December 2015 BHHRA obscured key risk assessment conclusions, namely that risks to human health in excess of the NCP cancer risk range and goal of a protection of a hazard index of one are related primarily to fish and crab tissue containing PCDDs/PCDFs and PCBs.

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- The CPG maintains that EPA Region 2 has imposed numerous unrealistic assumptions that do not reflect site-specific conditions or comport with the intent of Reasonable Maximum Exposure (RME). Regardless, CPG has performed the BHHRA in accordance with the Region's directives.
- The CPG is dismayed by the Region's lack of transparency and its unwillingness to provide the CPG with their own re-analysis of the Connelly et al. (1992)¹ angler survey data set, given that it is one of the two data sets critically relied upon by the Region to establish the fish consumption rate directed for use in the LPRSA BHHRA. Region 2's recommendation that the CPG request the raw data from the original study's author is not a substitute for or adequate response to the CPG's request for the Region's analysis of the data, which CPG understands was originally performed for the Hudson River BHHRA.
- The CPG continues to request that the Region obtain confirmation from Dr. Joanna Burger as to whether her 1999 angler survey² sampled the Hackensack River. As directed by EPA Region 2's February 16, 2017 email, the revised draft final BHHRA has included the Hackensack River in the list of Newark Bay Complex water bodies included in Dr. Burger's 1999 angler survey although there is no clear evidence that Hackensack River stations were included in the study. Such supposition if originating from the CPG, would be summarily rejected by EPA Region 2.

Notwithstanding the concerns outlined above and in previous communications, the CPG has complied with Region 2's directives stated in these comments and further clarified in conference calls and email communications between the Region and CPG in January and February 2017. The CPG believes it has revised the BHHRA in accordance with Region 2's directives and as such, requests that the Region approve the BHHRA.

¹ Connelly NA, Knuth BA, Bisogni CA. 1992. Effects of the health advisory and advisory changes on fishing habits and fish consumption in New York fisheries. Human Dimension Research Unit, Department of Natural Resources, New York State College of Agriculture and Life Sciences, Cornell University, Ithaca, NY.

² Burger J. 2002. Consumption patterns and why people fish. Environ Res A 90:125-135

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As discussed during the EPA-CPG meeting on January 24, 2017, the CPG suggests that the EPA limit its review of the revised document to EPA staff and contractors in order to expedite the review and approval of this final draft of the BHHRA with a goal of approval by June 2017 which will greatly facilitate the delivery of a revised RI Report in 2017.

The CPG requests that this letter be included in both the Administrative Records for the 17-mile LPRSA operable unit of the Diamond Alkali Superfund Site and the 8-mile Proposed Plan.

If you have any questions, please contact Bill Potter or me.

Very truly yours,

de maximis, inc.



Robert Law, Ph.D.
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